

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

Edible IP, LLC and Edible  
Arrangements, LLC,

*Plaintiffs-Counter Defendants,*

-v.-

World Media Group, LLC,

*Defendant-Counter Claimant.*

Civil Action File No: 3:20-cv-19178-MAS-LHG

Michael A. Shipp, U.S.D.J.  
Lois H. Goodman, U.S.M.J.

**DECLARATION OF JOHN M. BOWLER**

1. I am an attorney licensed to practice in the State of Georgia and admitted *pro hac vice* to practice in this United States District Court for the above-captioned matter. I am a partner of the law firm of Troutman Pepper Hamilton Sanders LLP and represent plaintiffs Edible Arrangements, LLC and Edible IP, LLC (“Edible”) in the above-captioned matter against defendant World Media Group, LLC (“World Media”). I have personal knowledge of the following facts and, if called and sworn as a witness, could and would competently testify thereto.

2. Attached hereto as **EXHIBIT 1** is a true and correct copy of World Media’s Notice of Opposition, filed in Trademark Office Opposition Proceeding No. 91263666 on July 16, 2020.

3. Attached hereto as **EXHIBIT 2** is a true and correct copy of the file history docket for Trademark Application Serial No. 88480402, which World Media challenged in Trademark Office Opposition Proceeding No. 91263666.

4. Attached hereto as **EXHIBIT 3** is a true and correct copy of a January 26, 2020, submission by Edible to the file for Trademark Application Serial No. 88480402, including images that identify the existence of an Edible Arrangements Application available on the Google Play Store and Apple App Store.

5. Attached hereto as **EXHIBIT 4** is a true and correct copy of the November 13, 2020, Declaration of Gerald Gorman (Dkt. 10-3) submitted in support of World Media's motion to dismiss or transfer this case to the District of New Jersey.

6. Attached hereto as **EXHIBIT 5** is a true and correct copy of the November 13, 2020, Declaration of Gregg A. Paradise (Dkt. 10-4) submitted in support of World Media's motion to dismiss or transfer this case to the District of New Jersey.

7. Attached hereto as **EXHIBIT 6** is a true and correct copy of Exhibit D (Dkt. 10-8) to the foregoing Declaration of Gregg A. Paradise.

8. Attached hereto as **EXHIBIT 7** is a true and correct copy of Exhibit E (Dkt. 10-9) to the foregoing Declaration of Gregg A. Paradise.

9. Attached hereto as **EXHIBIT 8** is a true and correct copy of a February 20, 2022, screen capture of World Media's [www.edibles.com](http://www.edibles.com) website, which was captured at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

10. Attached hereto as **EXHIBIT 9** is a true and correct copy of a February 20, 2022, screen capture of Edible's website subpage titled "Our History," which was captured at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

11. Attached hereto as **EXHIBIT 10** is a true and correct copy of a February 20, 2022, screen capture of Edible's website subpage titled "Store List," which was captured at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

12. Attached hereto as **EXHIBIT 11** is a true and correct copy of an archival copy of the Edible website homepage as it looked on February 7, 2019, which was produced to World Media in discovery as EDIBLE\_002236.

13. When a user clicks on the link “Mobile App” displayed on the Edible website homepage, [www.edible.com](http://www.edible.com), they are taken to the subpage [www.ediblearrangements.com/mobile-app](http://www.ediblearrangements.com/mobile-app) that is shown in World Media’s proposed Counterclaims ¶ 17.

14. Attached hereto as **EXHIBIT 12** is a true and correct copy of a February 22, 2022, screen capture of Edible’s website subpage titled “edibles®,” which was captured at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

15. Attached hereto as **EXHIBIT 13** is a true and correct copy of a February 22, 2022, screen capture of Edible’s mobile browser webpage, which was captured on an iPhone device at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

16. Attached hereto as **EXHIBIT 14** is a true and correct copy of the 2018 Declaration of Use and Incontestability submitted by Edible in support of its Trademark Registration No. 4,319,940, including images that identify the existence of an Edible Arrangements Application available on the Google Play Store and Apple App Store.

17. Attached hereto as **EXHIBIT 15** is a true and correct copy of a January 14, 2020, Specimen of Use submitted by Edible in support of its Trademark Registration No. 6,008,992, including images that identify the existence of an Edible Arrangements Application available on the Google Play Store and Apple App Store.

18. Attached hereto as **EXHIBIT 16** is a true and correct copy of a document produced by World Media in discovery that is Bates labeled WMG00012092.

19. Attached hereto as **EXHIBIT 17** is a true and correct copy of a February 20, 2022, screen capture of the first page of results displayed after searching for “Edibles” in the Apple App Store, which was captured on an iPhone device at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

20. Attached hereto as **EXHIBIT 18** is a true and correct copy of a February 20, 2022, screen capture of the 51st result displayed after searching for “Edibles” in the Apple App Store, which was captured on an iPhone device at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

21. Attached hereto as **EXHIBIT 19** is a true and correct copy of a February 18, 2022, screen capture of the first page of results displayed after searching for “edibles” in the Google Play Store, which was captured on a Google Pixel device at my direction by my Troutman Pepper colleague, associate Lindsay Mitchell Henner, in her capacity as an employee who I am supervising with respect to her work on this matter as counsel of record.

22. Attached hereto as **EXHIBIT 20** is a true and correct copy of a document page produced by Edible in discovery on August 19, 2021, Bates labeled EDIBLE\_000964. On detailed review of the entire production that Edible made on August 19, 2021, there are at least eighteen appearances of the icons for the Google Play Store and Apple App Store in reference to the Edible Arrangements App.

23. Attached hereto as **EXHIBIT 21** is a true and correct copy of a document page produced by Edible in discovery on November 23, 2021, Bates labeled EDIBLE\_002329.

24. Attached hereto as **EXHIBIT 22** is a true and correct copy of a document page produced by Edible in discovery on November 23, 2021, Bates labeled EDIBLE\_002348.

25. Attached hereto as **EXHIBIT 23** is a true and correct copy of Edible's Responses and Objections to World Media's First Set of Interrogatories, served on June 18, 2021.

26. Attached hereto as **EXHIBIT 24** is a true and correct copy of an excerpt of the deposition transcript of Stephen Thomas, showing start and stop times and exhibits entered.

27. Attached hereto as **EXHIBIT 25** is a true and correct copy of an excerpt of the deposition transcript of Paul Bundonis, showing start and stop times, exhibits entered, and his employment with the Incredible Edibles entity.

28. World Media's counsel did not ask either Mr. Thomas or Mr. Bundonis during their depositions, both of which I defended as counsel, to list Edible's channels of trade or ask them questions about Edible's mobile applications or whether there were mobile applications or questions that would elicit an answer about the mobile applications.

29. Attached hereto as **EXHIBIT 26** is a true and correct copy of Exhibit 8 to the deposition of Paul Bundonis.

30. Attached hereto as **EXHIBIT 27** is a true and correct copy of Exhibit 9 to the deposition of Paul Bundonis.

31. Attached hereto as **EXHIBIT 28** is a true and correct copy of a document produced by Edible in discovery on August 19, 2021, Bates labeled EDIBLE\_001950-EDIBLE\_001955.

32. Attached hereto as **EXHIBIT 29** is a true and correct copy of a document produced by Edible in discovery on August 19, 2021, Bates labeled EDIBLE\_001961-EDIBLE\_001964.

I declare under penalty of perjury that the foregoing is true and correct.

This the 22nd day of February 2022.

s/ John M. Bowler  
John M. Bowler